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**Children & Family Services  
Committee**

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**HB 3139**

**Brief Description:** Clarifying kinship caregivers' consent for mental health care of minors.

**Sponsors:** Representatives Pettigrew, Haler, Dickerson, Kagi, Dunn, Walsh, Darneille, Roberts, Hinkle, Morrell and Kenney.

<p><b>Brief Summary of Bill</b></p> <ul style="list-style-type: none"><li>• Clarifies that informed consent for medical care for a minor child includes mental health care.</li></ul>
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**Hearing Date:** 2/1/06

**Staff:** Sonja Hallum (786-7092).

**Background:**

In Washington state, a person has the right to make his or her own health care decisions. Under the principle of "informed consent," medical care must be explained to the patient so that he or she understands it and can make informed decisions. Treatment without consent, however, is allowed and will generally be provided in an emergency unless the patient indicates otherwise.

If the patient is determined to be incapacitated or incompetent to make health care decisions, a surrogate decision-maker must speak for him or her. If a person is under the age of 18, he or she is considered to lack capacity to make most health care decisions. However, a minor who is thirteen years of age or older may make decisions regarding his or her mental health treatment.

For those decisions a minor is not given the authority to consent to by law, there is a specific hierarchy of appropriate decision-makers defined by statute. The following is the list of persons, in order of priority, who may consent to medical treatment on behalf of another person:

- (1) a guardian who has been appointed by a court;
- (2) the person named in the durable power of attorney with health care decision-making authority;
- (3) a spouse;
- (4) adult children;
- (5) parents; and
- (6) adult brothers and sisters.

If a child's caregiver is not a person who is on the above list, the caregiver may not consent to medical treatment for the child in his or her care. This situation applies to relative caregivers, also known as kinship caregivers, who may informally be caring for a related child.

In 2005, the legislature passed SHB 1281 which expanded the list of persons who may provide informed consent for medical care to include persons whom the parent has authorized to consent to medical care and relatives who represent themselves to be, or have a signed declaration stating they are, responsible for the medical care of the child.

The legislation did not specify that the informed consent for medical care included consent for mental health care of a child.

**Summary of Bill:**

Language is added clarifying that informed consent for medical care includes mental health care in situations where the minor is not able to consent because he or she is under the age of majority and who is not otherwise authorized to provide informed consent.

The definition of "parent" is expanded for the purposes of the parent-initiated alternative for mental health treatment of minors and for outpatient mental health treatment to include persons with authority to provide informed consent for a minor.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.